

Enrolled House Bill 2156

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor John A. Kitzhaber for State Landscape Contractors Board)

CHAPTER

AN ACT

Relating to performance securities provided for landscape contracting business work; creating new provisions; and amending ORS 671.690.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 671.690 is amended to read:

671.690. (1) An applicant for a license as a landscape contracting business shall file with the State Landscape Contractors Board a surety bond with one or more corporate sureties authorized to do business in this state, or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008. The amount of the bond or letter of credit shall be:

(a) \$3,000 for an applicant, unless the applicant is described in paragraph (b), (c) or (d) of this subsection.

(b) \$10,000 for an applicant who, not in conjunction with the performance of landscaping work, constructs fences, decks, arbors, patios, landscape edging, driveways, walkways or retaining walls, unless the applicant is made subject to paragraph (d) of this subsection by work on other jobs performed by the applicant.

(c) \$10,000 for an applicant who charges more than \$10,000, but less than \$25,000, for a landscape job.

(d) \$15,000 for an applicant who charges \$25,000 or more for a landscape job.

(2) The bond or letter of credit [*required under subsection (1) of this section*] shall be conditioned that the applicant pays:

(a) All taxes and contributions due to the State of Oregon;

(b) All persons furnishing labor or material, or renting or supplying equipment to the landscape contracting business;

(c) All amounts that may be adjudged against the landscape contracting business by reason of negligent or improper work or breach of contract in performing any work subject to ORS 671.510 to 671.760; and

(d) All amounts from the bond, letter of credit or deposit the board orders paid under ORS 671.703.

(3) In addition to providing the applicant with coverage for the activities described in ORS 671.520 (1), the bond or letter of credit must provide the applicant with coverage for:

(a) Backflow assembly testing services provided by employees of the landscape contracting business who are certified under ORS 448.279;

(b) The installation, repair or maintenance by the landscape contracting business of backflow assemblies for irrigation systems and ornamental water features as described in ORS 447.060; and

(c) The installation by the landscape contracting business of landscape irrigation control wiring and outdoor landscape lighting as described in ORS 479.940.

[3] (4) In lieu of the surety bond or letter of credit, [required under subsection (1) of this section, the landscape contracting business] **the applicant** may file with the board, under the same terms and conditions as when a bond is filed, a deposit in cash or negotiable securities acceptable to the board.

[4] (5) The bond, letter of credit or deposit [required by this section] must be continuously on file with the board in the amount required by this section and is for the exclusive purpose of payment of final orders and arbitration awards in accordance with ORS 671.703. Upon termination or cancellation of the bond, withdrawal of the deposit or reduction of the bond, letter of credit or deposit to less than the required amount, the licensee shall immediately:

- (a) File a replacement bond, letter of credit or deposit; or
- (b) Surrender the license to the board and cease operating as a landscape contracting business.

[5] (6) If the cost of a project makes, or foreseeably will make, a licensee subject to a higher bond or letter of credit requirement under subsection (1) of this section, the licensee shall immediately file additional bonds, letters of credit or deposits to meet the higher requirements.

[6] (7) The landscape contracting business is responsible for all work [that is] subject to ORS 671.510 to 671.760 **that is performed or contracted for by the business.**

SECTION 2. The amendments to ORS 671.690 by section 1 of this 2011 Act apply to bonds, letters of credit and deposits filed with the State Landscape Contractors Board on or after the effective date of this 2011 Act.

Passed by House April 20, 2011

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Ramona Kenady Line, Chief Clerk of House

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Passed by Senate May 9, 2011

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2011

Approved:

.....M.,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M.,....., 2011

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Kate Brown, Secretary of State